IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Crl.MC.No. 3561 of 2007()

LPC.148/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PAYYANNUR
CRIME NO.547/02 OF PAYYANNUR POLICE STATION

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PETITIONER: 2ND ACCUSED

ZACHARIA P.K., S/O. ABDUL KHADER,
AGED 26 YEARS, PONNICHIKUZHIYAL, K.C.PALOM,
VADAKKUMPADU, RAMANTHALI, PAYYANNUR.

BY ADV. SRI.P.M.HABEEB

RESPONDENTS: STATE

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
(CRIME NO.547 OF 2002 PAYYANNUR POLICE STATION).

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3561 OF 2007

Dated this the 28th day of November, 2007

O R D E R

The petitioner is the 2nd accused. He faces indictment in a prosecution for offences punishable, inter alia, under section 326 and 307 read with 149 IPC. Consequent to the non-appearance of the petitioner, the case against the petitioner has been split up and has been transferred to the list of long pending cases. The case against the co-accused has already been committed to the Court of Sessions. Warrants of arrest issued by the learned Magistrate against the petitioner are chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He was employed abroad and that is why he could not enter appearance. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and

applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George vs. Deputy Superintendent of Police*** [2003 (1) KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. Though it is not stated in the petition, the learned counsel for the petitioner finally submits that the marriage of the

petitioner is scheduled to take place on 2.12.07 and there may be a direction that the petitioner shall not be arrested till the marriage is over.

6. In the peculiar facts and circumstances of this case, there shall be a direction that the petitioner shall not be arrested till 5.12.07 on or before which date the petitioner must surrender before the learned Magistrate and seek regular bail.

(R.BASANT, JUDGE)

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